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November 27, 2018

SUBMITTED ELECTRONICALLY

National Freedom of Information Officer

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW (2822T)

Washington, DC 20460

(202) 566-1667

Re: Freedom of Information Act Request for All Records Related to Reporting Required by  
40 C.F.R. Part 60 Subpart 0000a

Dear National Freedom of Information Officer:

Environmental Defense Fund ("EDF") respectfully requests records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. EDF seeks copies of all records, as that term is described at 5 U.S.C. § 552(f)(2), related to reporting made pursuant to 40 C.F.R. Part 60 Subpart 0000a ("Subpart 0000a"). These include, but are not limited to, communications, documents, letters, information, notes, memoranda, electronic mail transmissions or other electronic forms of information, telephone logs and records, meeting records, reports, analyses, assessments, data, and modeling, including all drafts and preliminary forms of any such records. Specifically, EDF requests:

(1) Copies of all reports submitted to EPA pursuant to Subpart 0000a's reporting requirements

including, but not limited to, the following reports:

☐ Results of the Performance Test, as required by 40 C.F.R. § 60.5420a(b)(9)(i);

☐ Semiannual Reports, as required by 40 C.F.R. § 60.5422a(a); 1

☐ Annual Reports, as required by 40 C.F.R. § 60.5420a(b); and

☐ Annual Reports of Excess Emissions for Sweetening Units, as required by 40 C.F.R. § 60.5423a(b).

(2) Copies of all internal correspondence and all correspondence between EPA and outside

parties containing:

1 U.S. EPA, Part 60 Stats, <https://www3.epa.gov/ttn/chief/cedri/Part60stats.pdf>.

2

☐ reference to the new source performance standards for the oil and gas sector, Subpart 0000a, or any of the specific reports or regulatory provisions listed above in paragraph (1) of this request; and

☐ containing one or more of the following terms:

o "comply," including any inflection thereof (e.g., "complies," "complying,"

"compliant," or "compliance");

o "deadline" or "deadlines";

o "delay," including any inflection thereof (e.g., "delays," "delayed," or "delaying");

o "due";

o "enforce," including any inflection thereof (e.g., "enforces," "enforcing," or "enforcement");

o "extend," including any inflection thereof (e.g., "extends," "extending," "extension," or "extensions");

o "postpone," including any inflection thereof (e.g., "postpones," "postponed," "postponing," or "postponement"); or

o "variance" or "variances."

On November 1, 2017, EDF submitted a separate FOIA request seeking EPA records that relate to OOOOa reporting and correspondence. The November 2017 request, which EPA docketed as number EPA-HQ-2017-001268, covered records produced, modified, or transmitted since January 20, 2017. The scope of the November 2017 request was narrowed on January 31, 2018 and the instant request may be similarly limited by:

☐ excluding any reports required by 40 C.F.R. § 60.5423a(b) if no reports have been submitted pursuant to this regulation;

☐ excluding reports of Performance Tests conducted by the manufacturer and reported under 40 C.F.R. § 60.5420a(b)(10); and

☐ excluding the records from the Office of Transportation and Air Quality (OTAQ) and Office of Radiation and Indoor Air (ORIA).

Further, on June 20, 2018, EDF agreed to exclude "due" and "enforce" (including any inflections) from the regional correspondence. In the interest of consistency, and due to the overlapping time periods for request EPA-HQ-2017-001268 and the instant request, we agree to exclude those terms from the regional correspondence for this request as well.

This new request covers records produced, modified, or transmitted from January 20, 2017 through the date upon which EPA begins searching for records responsive to this request, excluding any records already covered by the November 2017 request (No. EPA-HQ-2017-001268). If any record covered by the November 2017 request was subsequently modified or transmitted, such modification or transmission qualifies as a separate record for the purposes of this request, and should therefore be included among the responsive records. This request does not modify - and should not affect the processing of - the November 2017 request.

If any of the information sought in this request is deemed by EPA to be properly withheld under

a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such

3

record or portion thereof, sufficient to identify the record and the particular exemption(s)

claimed.

Request for Expedited Processing

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is "[a]n urgency to inform the public about

an actual or alleged Federal government activity, if the information is requested by a person

primarily engaged in disseminating information to the public." With respect to five

other FOIA

requests, EPA has recognized EDF's eligibility for expedited processing on this basis.<sup>2</sup> In support of this request for expedited processing, I certify that the following information is true

and correct to the best of my knowledge and belief:

(1) EDF engages in extensive, frequent efforts to inform the public about matters involving environmental policy, including standards applicable to oil and natural gas facilities and the emission of air pollutants from these facilities. For example, EDF has multiple channels for distributing information to the public, including through direct communication with its more than 2 million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.<sup>3</sup>

(2) Expedited processing is critical so that the American public has access to information on the effectiveness of EPA's standards for oil and natural gas facilities, including information on the critical emission reductions these standards are delivering.

(3) Furthermore, EPA is currently soliciting comments related to its proposed rule for reporting requirements under Subpart OOOOa at EPA-HQ-OAR-2017-0483. The comment period for this proposed rule closes on December 17, 2018, highlighting the need for expedited processing in order to ensure EDF, and other entities, are able to submit comments based on a complete record.

#### Request for Fee Waiver

As a non-partisan, non-profit organization that provides information that is in the public interest,

2 See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPAHQ-2017-009579 (July 26, 2017).

3 See, e.g., David Lyon, New EPA Data Confirms Methane Emissions Not Declining Fast Enough, EDF Energy Exchange Blog (Oct. 23, 2018), <http://blogs.edf.org/energyexchange/2018/10/23/new-epa-data-confirms-methane-emissions-not-declining-fast-enough>; Press Release, EDF, Mexico's Finalized Methane Regulations Contrast with Trump's EPA Rollbacks (Nov. 13, 2018), <https://www.edf.org/media/mexicos-finalized-methane-regulations-contrast-trumps-epa-rollbacks>.

4

EDF respectfully requests a waiver of fees associated with this request. We are not seeking

information for any commercial purpose and the records received will contribute to a greater

public understanding of key methane and air pollution issues of considerable public interest.

5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate to the public information

submitted pursuant to Subpart OOOOa, as we routinely issue press releases, action alerts,

reports, analyses, and other public outreach materials. These outreach channels are proven

effective: articles about records EDF has obtained through FOIA productions have appeared in several major media outlets.<sup>4</sup> We fully intend to disseminate newsworthy information received in response to this request. Accordingly, we respectfully request

that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (303) 447-7214 or by email at pzalzal@edf.org.

Respectfully submitted,

Peter Zalzal

Jessica Christy

Environmental Defense Fund

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4 See, e.g., Ryan Beene, White House Told EPA to Ready California Autos Challenge in 2017, Bloomberg (June 1, 2018), <https://www.bloomberg.com/news/articles/2018-06-01/white-house-told-epa-to-ready-california-autos-challenge-in-2017> (reporting information disclosed through an EDF FOIA request); Ellen Knickmeyer, Emails Show Cooperation Among EPA, Climate-Change Deniers, Assoc. Press (May 26, 2018), <https://apnews.com/64cd37b0503440c0b92e6ca075f87dd4> (same); Michael Biesecker, Emails: Pruitt Monitored Changes to EPA Webpages on Climate, Assoc. Press (Feb. 2, 2018), <https://www.apnews.com/85e69300761040a2995f5b457f2ac9f4> (same); Coral Davenport & Eric Lipton, Scott Pruitt Is Carrying Out His E.P.A. Agenda in Secret, Critics Say, N.Y. Times (Aug. 11, 2017), <https://www.nytimes.com/2017/08/11/us/politics/scott-pruitt-epa.html> (same).